

REQUEST FOR COUNCIL ACTION

SUBJECT: Leasing of Police and Fire vehicles

SUMMARY: Approve a leasing agreement with The Bancorp Bank/dba/Mears Motor Leasing to provide leasing services for 47 Police Department vehicles and 3 Fire Department vehicles for a 3 year lease beginning with the 2014/15 budget year.

FISCAL IMPACT: Funding for these leases will come from the Department Fleet Leasing budget. Annual fee from the Police budget will be \$383,761.03 and the annual fee from the Fire budget will be \$17,507.46.

STAFF RECOMMENDATION:

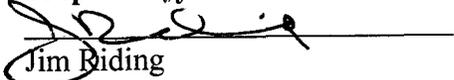
Staff recommends approval of a leasing agreement with The Bancorp Bank/dba/Mears Motor Leasing to provide leasing services for 47 Police Department vehicles and 3 Fire Department vehicles for a 3 year lease in an amount not to exceed \$401,268.49 annually for three years beginning with the 2014/15 budget year. Staff also recommends negotiating with The Bancorp Bank/dba/Mears Motor Leasing to provide leasing services for additional Police and Fire vehicles for the 2015/16 and 2016/17 budget years.

MOTION RECOMMENDED:

"I move to adopt Resolution No. ~~14-164~~ authorizing the approval of a leasing agreement with The Bancorp Bank/dba/Mears Motor Leasing to provide leasing services for 47 Police Department vehicles and 3 Fire Department vehicles for a 3 year lease in an amount not to exceed \$401,268.49 annually for three years beginning with the 2014/15 budget year and to negotiate with The Bancorp Bank/dba/Mears Motor Leasing to provide leasing services for additional Police and Fire vehicles for the 2015/16 and 2016/17 budget years.

Roll Call vote required.

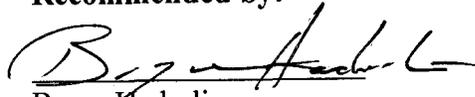
Prepared by:


Jim Biding
CIP/Facilities/Fleet Project Manager

Reviewed as to Legal Sufficiency:


Jeffery Robinson
City Attorney

Recommended by:


Bryce Haderlie
Interim City Manager

BACKGROUND DISCUSSION:

Following the direction of City Council, Staff solicited Request for Proposals (RFP) from leasing companies to provide leasing services for the Police and Fire Departments. Staff was instructed to plan on replacing 1/3 of the Police and Fire vehicles (not including the Fire Apparatus vehicles) each year for the next 3 years. Three firms responded to the RFP with The Bancorp Bank/dba/Mears Motor Leasing being the lowest responsive and responsible submitter. The proposals submitted did not include the upfitting required by the Fire Department for their 3 vehicles. That amount has been included in the total lease amount.

Attachments:

Resolution
Cost spreadsheet

Quantity		Acme Auto Leasing	Jefferson Leasing	Hincklease
12	Ford F-150 XLT 4 x 4 Super-Crew Trucks	\$174,240.00	\$69,184.80	\$79,474.00
	12 Radios & Camera systems	inc	\$36,331.61	\$37,380.84
2	Ford F-150 XLT 4 x 4 Super Crew Trucks	\$17,040.00	\$9,996.00	\$11,705.14
	2 Bedcover, slied, bed box & window tint	inc	inc	inc
3	Ford F-250 Superduty XLT 4 x 4 Extra-Cab Trucks	\$41,940.00	\$14,749.92	\$18,827.28
	3 Animal control utility box, & radios	inc	\$15,224.18	\$15,664.47
19	Ford Taurus Sedans	\$141,588.00	\$93,965.64	\$94,136.07
	19 radios	inc	\$17,976.58	\$18,491.56
11	Ford Interceptor Police Sedans	\$143,880.00	\$93,028.32	\$86,115.81
	11 Radios & Camera systems	inc	\$33,303.98	\$34,265.77
3	Ford F-150 XLT 4 x 4 Super Crew Trucks for Fire	\$18,180.00	\$9,066.96	\$9,771.33
	3 each upfitting for fire vehicles	\$8,440.50	\$8,440.50	\$8,440.50
50	Total	\$545,308.50	\$401,268.49	\$414,272.77

THE CITY OF WEST JORDAN, UTAH
A Municipal Corporation

RESOLUTION NO. 14-164

**A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT WITH THE
BANCORP BANK/DBA/MEARS MOTOR LEASING
TO PROVIDE LEASING SERVICES FOR POLICE AND FIRE VEHICLES**

WHEREAS, the City Council of the City of West Jordan has reviewed the Agreement between the City of West Jordan and The Bancorp Bank/dba/Mears Motor Leasing (a copy of which is attached) for a 3-year lease of police and fire department vehicles in an amount not to exceed \$401,268.49 annually; and

Whereas, the City Council desires to execute the Agreement with The Bancorp Bank/dba/Mears Motor Leasing which award shall not be binding upon the City of West Jordan unless and until the Agreement is fully executed by the parties; and

Whereas, the proposed Agreement between the City of West Jordan and The Bancorp Bank/dba/Mears Motor Leasing for a 3-year lease of fire and police department vehicles for an annual amount not to exceed \$401,268.49.00 has been reviewed; and

Whereas, the City Council of the City of West Jordan has determined that the attached Agreement with The Bancorp Bank/dba/Mears Motor Leasing for an amount not-to-exceed \$401,268.49.00 annually is acceptable.

NOW, THEREFORE, IT IS RESOLVED BY THE CITY COUNCIL OF WEST JORDAN, UTAH, THAT:

Section 1. After approval as to legal form, the Mayor is hereby authorized and directed to execute the Agreement between the City of West Jordan and The Bancorp Bank/dba/Mears Motor Leasing, for an amount not to exceed \$401,268.49.00 annually.

Section 2. This Resolution shall take effect immediately upon passage.

Adopted by the City Council of West Jordan, Utah this 27th day of August 2014.

Kim V. Rolfe
Mayor

ATTEST:

Melanie S. Briggs
City Recorder

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Voting by the City Council	"AYE"	"NAY"
Jeff Haaga	_____	_____
Judy Hansen	_____	_____
Chris McConnehey	_____	_____
Chad Nichols	_____	_____
Ben Southworth	_____	_____
Justin D. Stoker	_____	_____
Mayor Kim V. Rolfe	_____	_____

MASTER LEASE AGREEMENT

The Bancorp Bank dba Mears Leasing ("Lessor"), a part of The Bancorp Fleet Management and Leasing Network with offices at _____ and the City of West Jordan ("Lessee" with offices at 8000 South Redwood Road, West Jordan, Utah 84088) hereby agree as follows:

1. **Vehicles Leased.** Lessor leases to Lessee, and Lessee leases from Lessor, all vehicles (including all replacements and substitutions thereto from time to time) (individually a "Vehicle" and collectively, the "Vehicles") described in each and every "Schedule A" executed and delivered pursuant to this Agreement (singly, a "Schedule", and collectively, "Schedules"). Each Schedule incorporates this Agreement. Lessee and Lessor acknowledge that this Agreement constitutes an Operating Lease with respect to Section 7701(h)(3) of the Internal Revenue Code and that Lessee has no equity or other ownership rights in the Vehicles or their accessories or replacement parts other than the Purchase Option referenced in this Agreement.
2. **Incorporation of Exhibits.** The City of West Jordan, Utah Request for Proposal to Provide Fleet Leasing Services is attached hereto as Exhibit A and incorporated herein by this reference. The Lessor's proposal dated May 20, 2014 is attached hereto as Exhibit B and incorporated herein by this reference.
3. **Payments.** The initial annual lease payment will be due on delivery with the second lease payment due on the 1st anniversary after delivery. The final annual lease payment will be due on the succeeding anniversary. Lease payments are due whether or not Lessor has rendered an invoice for any such payment. Any other amounts due hereunder will be payable upon demand.
4. **Tax Consideration.** This lease is intended to provide Lessor (or its consolidating entity) (a) tax free interest as provided by the internal Revenue Code of 1986, as amended ("the Code") without any loss of deductibility of carrying costs and (b) similar tax exempt and deductibility treatment to the extent so provided under the laws of the State of Florida.
5. **Non-Appropriation.** If no funds or insufficient funds are appropriated in any fiscal year for lease amounts due as to any Vehicle, Lessee has a right to terminate this lease as to the related Vehicle because of such non-appropriation. Lessee shall immediately notify Lessor of such occurrence, and this lease shall terminate as to such Vehicle on the last day of the fiscal period for which appropriations were received, without penalty or expense to Lessee except as to related amounts herein for which funds shall have been appropriated and budgeted. Upon such termination, Lessee shall peaceably surrender possession of the Vehicle to Lessor at a location contemplated in the Termination Settlement paragraph. Lessor shall have all legal and equitable rights and remedies to take possession of the Vehicle. Lessee agrees (a) that it will not cancel this lease if any funds are appropriated to it, or by it, for the acquisition, retention, or operation of another vehicle performing functions similar to the vehicle for the fiscal period in which such termination occurs, and (b) that Lessee shall not give priority in the application of funds to any other functionally similar property.
6. **Titling; Registration.** Except as Lessor may title or register a Vehicle, each Vehicle will be titled and/or registered by Lessee as Lessor's agent and attorney-in-fact with full power and authority to

register (but without power to affect title to) the Vehicle in such manner and in such jurisdiction or jurisdictions as Lessor directs. Lessee will promptly notify Lessor of any necessary or advisable re-titling and/or re-registration of a Vehicle in a jurisdiction other than the one in which such Vehicle is then titled and/or registered. Lessee will use reasonable efforts to cause any and all documents of title to be furnished to Lessor.

7. **Other Duties Regarding Vehicles.** Lessee will file all returns and pay all taxes related to each Vehicle or this lease. Lessee will use a Vehicle in accordance with all laws and manufacturer's and insurance company instructions. Each Vehicle will be located in Utah and not removed from that state for more than thirty (30) days, unless Lessor consents to Lessee's movement of the Vehicle. Lessee will maintain each Vehicle in good condition and repair, pay all costs of operation and not make any detrimental additions or modifications. Lessee may install and remove equipment identified in the City of West Jordan, Utah Request for Proposal to Provide Fleet Leasing Services, attached hereto. Lessee will allow Lessor to inspect any Vehicle and Lessee's related records during Lessee's regular business hours upon reasonable prior notice.

8. **Assignment.** Lessee will not sell, transfer, lend, lease or grant a further lien in any Vehicle. Lessor may assign lessor's rights hereunder, and if Lessee receives notice of an assignment from lessor, Lessee will pay any assigned amounts as directed in the notice.

9. **Loss or Destruction.** Lessee will notify Lessor of any significant damage to or the loss or destruction of Vehicle. If Lessee determines the Vehicle is repairable, Lessee will repair the Vehicle. If Lessee determines that the Vehicle cannot be repaired, Lessee will retain the damaged, irreparable Vehicle and pay to Lessor the Settlement Value as defined herein below.

10. **Insurance; Indemnity.** Lessor understands and agrees that Lessee is self-insured. Lessee also agrees to indemnify, defend and hold Lessor harmless against all claims, suits, losses, damages and expenses, including attorney's fees and court costs, incurred by or asserted against Lessor arising out of the Vehicles.

11. **Termination Settlement.** At any time after twelve (12) months from delivery of a Vehicle, Lessee, upon not less than ten (10) days prior notice to Lessor and provided the lease is not in default, may surrender the Vehicle to Lessor at Lessor's office address shown above or at a location mutually agreed upon by the parties for sale by Lessor. Lessee will surrender the Vehicle at such location for sale at lease expiration. Following such surrender Lessor will sell the Vehicle through Lessor's standard wholesale sales procedure for the highest bona fide bid received and open at time of sale, provided that Lessor may choose alternatively to retain the Vehicle. Lessor may move the Vehicle from the location where surrendered to Lessor's office location and/or clean the Vehicle in connection with such sale in Lessor's reasonable discretion. If the amount received by lessor on account of such sale or the highest bona fide bid received and open at time of crediting where the Vehicle is retained, as appropriate, net in either instance of a handling charge of \$150.00 and Lessor's reasonable cost of sale, including sales commissions and costs of cleaning or transporting the Vehicle, is greater than the Vehicles Settlement Value, Lessee will have no settlement obligation to Lessor as to the Vehicle and the excess will be returned to Lessee after application to any amounts then owed by Lessee to Lessor. If less, Lessee will

pay Lessor the difference. Alternatively, if the lease is not in default, Lessee may purchase the Vehicle by paying to the Lessor the Settlement Value. The Settlement Value will be the total of the following:

- (a) Any past due annual lease payments; plus
- (b) Any interest, late charges or other amount due because of past due annual lease payments; plus
- (c) Any fees and taxes imposed in connection with the purchase; plus
- (d) Initial principal, less principal paid to date, plus accrued unpaid interest to date.

12. **Default.** If (a) Lessee fails to make any payment due hereunder within 30 days of the due date, except as set forth in section 5 of this lease; (b) Lessee breaches any of its other obligations hereunder; (c) any warranty or representation made by Lessee to Lessor is materially incorrect or misleading when made; (d) there is a cessation of Lessee's governmental functions; or (e) insolvency proceedings are instituted by or against Lessee, this lease will be in default.

13. **Remedies.** If a default occurs, Lessor may (a) declare the Settlement Value due as to affected Vehicles; (b) perform any obligation Lessee has failed to perform, in which case Lessee will reimburse Lessor's related costs and expenses; and (c) exercise any other rights available to Lessor under law or equity.

14. **Lessee's Representations.** Lessee represents that this lease has been duly authorized, executed and delivered by Lessee and constitutes Lessee's valid and binding obligation enforceable in accordance with its terms. Lessee also represents that this lease does not violate Lessee's charter documents, any agreement by which Lessee is bound or any law or obligation binding on Lessee.

15. **Notices.** Any notices relating to this lease must be in writing and will be effective when deposited in the United States Mail with proper first class postage paid, addressed to the appropriate party at the respective address indicated above or at such other address of which the party has provided the other notice as contemplated in this paragraph.

16. **General Provisions.** Lessee will provide Lessor any further documents and information Lessor may request in connection with this lease. This lease, schedules and exhibits bind the parties and their successors and assigns and constitute the entire agreement between the parties respecting the Vehicles. Any amendment must be in writing and signed by the party to be bound. Any unenforceable provision shall be deemed deleted without affecting the remainder of the lease. This lease will be governed by Utah law. Venue shall be in Salt Lake County, Utah. Paragraph headings are for convenience only. Time is of the essence of this lease. The parties waive any right to a jury trial in any related action. Any waiver must be in writing.

17. **Bank-Qualified Tax Designation.** Initial box if this paragraph applies. Lessee certifies that Lessee and any subordinate entities does not expect to, and will not issue more than \$10,000,000 of obligations the interest on which is excludable from the gross income of the holder thereof for federal income tax purposes during any calendar year in which a vehicle is accepted under this lease. Lessee will designate the obligations undertaken pursuant to this lease with respect to all vehicles covered hereby as "qualified tax exempt obligations" within the meaning of §265 (b)(3)(D) of the Code. Lessee agrees to

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The Bancorp Bank dba Mears Leasing, a
Florida Corporation

By _____
Print Name

Its _____

ACKNOWLEDGMENT

STATE OF UTAH)
 : ss.
County of Salt Lake)

On this ____ day of _____, 2014, before the undersigned notary public in and for the said state, personally appeared _____, known or identified to me to be the _____ of The Bancorp Bank dba Mears Leasing, and the person who executed the foregoing instrument and acknowledged to me that said corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year first above written.

Notary Public for Utah
Residing at: _____
My Commission Expires: _____